

In the Matter of License No. 20873
Issued to: OSCAR RHOADES

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1403

OSCAR RHOADES

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.30-1.

By order dated 20 December 1962, and Examiner of the United States Coast Guard at San Francisco, California suspended Appellant's seaman documents for three months upon finding him guilty of misconduct and negligence. The first specification under the charge of negligence was proved by Appellant's plea of guilty to the allegations that while serving as operator on board the United States MB SEA BEE, a party fishing vessel, under authority of the license above described, on 18 October 1962, he negligently permitted his vessel to be operated in a manner which resulted in a collision with another vessel which was dead in the water. The second specification alleging negligence was proved by evidence that, on 16 November 1962, while serving as above, Appellant approached a smaller vessel from astern and passed it so close aboard that a fishing line from the other vessel was cut adrift. The specification under the charge of misconduct was proved by evidence that, on 16 November 1962, the SEA BEE was navigating while carrying seven "passengers" (as defined in 46 U. S. Code 390) and without having a valid certificate of inspection.

On appeal, it is conceded that Appellant was guilty of negligence. However, Appellant does not think that these offenses justify an order greater than a suspension on probation. He states that the income from operating the SEA BEE is his only means of support.

OPINION

The decision of the Examiner, including the order, will be upheld. Appellant admits his negligence and the fact that, on 16 November, the certificate of inspection for the SEA BEE had expired about two months earlier and had not yet been renewed. Since there were more than six passengers on board, a certificate of inspection was required by 46 U. S. Code 390c.

The order of three months' suspension is not considered to be excessive particularly since one month of this is a suspension which had been placed on six months' probation on 28 May 1962 for failing to keep clear of an overtaken vessel - substantially the same offense as is alleged in the second specification under the negligence charge. The additional tow months' outright suspension, for the three offenses now under consideration, is justified. Another probationary suspension would not be appropriate for offenses committed within six months of the order of probation on 28 May 1962. This conclusion is not influenced by the personal hardship caused Appellant since matters of safe navigation are given paramount consideration in these proceedings.

ORDER

The order of the Examiner dated at San Francisco, California, on 20 December 1962, is AFFIRMED.

E.J. ROLAND
Admiral, United States Coast Guard
Commandant

Signed at Washington, D.C., this 11th day of July 1963.